

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

	X	
)	
GENOA COLOR TECHNOLOGIES, LTD.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 07-CIV-6233 (PKC)
MITSUBISHI ELECTRIC CORP.; MITSUBISHI)	
ELECTRIC US HOLDINGS, INC.; MITSUBISHI)	
ELECTRIC AND ELECTRONICS USA, INC.;)	
MITSUBISHI DIGITAL ELECTRONICS)	
AMERICA, INC.; SAMSUNG ELECTRONICS CO.,)	
LTD.; SAMSUNG ELECTRONICS AMERICA,)	
INC.,)	
)	
Defendants.)	
	X	

**THE SAMSUNG DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR
RECONSIDERATION OF THE COURT'S ORDER GRANTING A STAY**

Plaintiff Genoa Color Technologies, Ltd. ("Genoa") moves for reconsideration of the Court's Order dated June 20, 2008 staying the proceedings pending developments in the reexamination proceedings before the U.S. Patent and Trademark Office ("PTO") and directing the parties to report to the Court by December 19, 2008. Genoa now reiterates the very same rationale that it already advanced at the June 20 hearing and during the prior stay hearing. That is, it argues that the PTO's reexamination process will take significant time. The anonymous Internet publication relied upon by Genoa, however, does not present a sufficient legal or factual ground for revisiting the Court's June 20, 2008 Order.

As discussed at the June 20 hearing, the PTO has taken steps to ensure that reexaminations proceed in a timely fashion. In 2005, the PTO created a new reexamination unit comprised of "20 highly skilled primary examiners who have a full understanding of

reexamination practice and relevant case law” and who “concentrate solely on reexamination.”¹ The PTO has indicated that “all future reexamination proceedings will be completed within a specific timeframe, which is expected to be less than two years,” and has implemented specific procedures to meet that goal. *Id.* The PTO’s actions are consistent with its statutory mandate to conduct *inter partes* reexaminations with special dispatch. *See* 35 U.S.C. § 314(c); *see also* 37 C.F.R. § 1.937(a).

Genoa’s arguments—and those of the anonymous, unauthenticated Internet publication—about the length of reexaminations are in direct conflict with the PTO’s official statistics. As of March 31, 2008, the average *inter partes* reexamination proceeding took two-and-a-half years—31.4 months—to resolve.²

Most importantly, the Court’s requirement of status updates will allow the Court to ensure that significant progress is being made at the PTO in this particular matter. In this case, the PTO has already acted with the special dispatch required by the Patent Act, with a three-member panel having issued three substantive orders granting reexamination and finding substantial new questions of patentability based on seven primary prior art references. The Samsung Defendants expect further significant progress soon at the PTO, as the PTO will likely issue a highly substantive first Office Action adjudicating numerous invalidity issues in the coming months. As required by the Court’s June 20, 2008 Order, the parties will provide an update to the Court on the progress at the PTO by December 19, 2008.

¹ U.S. Patent and Trademark Office, USPTO Improves Process for Reviewing Patents (July 29, 2005), *available at* <http://www.uspto.gov/web/offices/com/speeches/05-38.htm>.

² Exhibit A (U.S. Patent and Trademark Office, *Inter Partes* Reexamination Filing Data—March 31, 2008 (Mar. 31, 2008)).

CONCLUSION

For the foregoing reasons, the Samsung Defendants respectfully submit that Genoa's motion for reconsideration should be denied.³

Respectfully submitted,

/s/ Richard L. Rainey

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Dated: July 14, 2008
Washington, DC

³ The Samsung Defendants also join the arguments set forth in the Mitsubishi Defendants' Opposition to Genoa's Motion for Reconsideration.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document and its attached exhibit via the Court's CM/ECF system on this the 14th day of July 2008. Any other counsel of record will be served by first class U.S. mail on the same date.

/s/ Brian G. Bieluch

Brian G. Bieluch